



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

**OFFICE OF
ENVIRONMENTAL REVIEW
AND ASSESSMENT**

June 16, 2017

Ms. Kelly Urbanek
Chief, Regulatory Division
Walla Walla District
U.S. Army Corps of Engineers
Boise Field Office
720 Park Blvd., Suite 245
Boise, Idaho 83712

Dear Ms. Urbanek:

The U.S. Environmental Protection Agency has reviewed Public Notice NWW-2004-0600046-B02, dated May 17, 2017, which describes a proposal by the Idaho Transportation Department (ITD) to construct 6.34 miles of new four-lane divided highway for US 95, between Mile Posts 337.67 and 344.00, from Thorn Creek Rd. to Moscow. Presently, this stretch is a two-lane highway. The proposed project would include the following components, as identified in the Public Notice:

- Discharge 4,373 cubic yards of road fill material to permanently fill 3.43 acres of wetlands.
- Discharge 620 cubic yards of road fill material below the ordinary high water mark of five unnamed tributaries.
- Pipe 4,290 linear feet of unnamed tributaries/drainages.
- Construct 4,030 linear feet of onsite drainages, adjacent of the new roadway.
- Install 16 culverts under the new highway.
- Temporarily fill 0.25 acres of wetlands and drainages during construction.

The purpose of the proposed project is to improve safety for the traveling public and to increase the capacity of US 95. The project site would be located east of the existing alignment, within Sections 19, 20, 29-32, T. 39 N., R. 5 W.; Sections 24 and 25, T. 39 N., R. 6 W., Sections 5-9, 17, 18, and 20, T. 38 N., R. 5 W.; and Sections 1, 12, and 13, T. 38 N., R. 6 W., in Latah County, near Moscow, Idaho. The project would extend from 46.713606 N. Latitude, -117.003931 W. Longitude (northern end) to 46.627778 N. Latitude, -116.995381 W. Longitude (southern end).

The project was the subject of an Environmental Impact Statement (EIS) prepared by the Federal Highway Administration and the ITD. The EPA submitted comments on the Final EIS on September 21, 2015. Our comments noted that the three alternatives brought forward for detailed analysis each met the basic project purpose of improving highway safety and capacity, and that each alternative appeared to be practicable. We also noted that ITD's preferred alternative, alignment E-2, had the greatest level of impacts to aquatic resources, and as a result, did not appear to comply with the Clean Water Act Section 404(b)(1) Guidelines. The Record of Decision (ROD) on the EIS was published on March 16, 2016, and continued to identify alignment E-2 as the applicant's preferred alternative, but also noted that the selection of the Least Environmentally Damaging Practicable Alternative, or LEDPA, would be

identified by the U.S. Army Corps of Engineers in the permit process. The proposed project, which is the subject of the above-referenced Public Notice, is alignment E-2.

The applicant indicated in the ROD that its preferred alternative was selected based on greatest safety improvements; however, the only threshold identified for determining whether the project alternatives met the purpose and need was whether they met the American Association of Safety and Transportation Highway Officials standards. All three alternatives meet this criteria, and no other thresholds for achieving project purpose were identified in the ROD. The high level of aquatic resource impacts from the proposed project, when there are two other practicable alternatives with less impact, does not meet the requirements of 40 CFR 230.10(a).

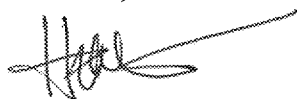
Our review indicates that alternative C-3 appears to be the LEDPA, and that there are no other adverse environmental effects which would preclude this designation. Most of the historic wetland resources in this region have been converted to farm land, with extensive changes in the stream drainages. The unnecessary losses of headwater wetlands and higher value wetlands under the proposed alternative as compared to the other alternatives, would occur in a landscape in which such resources are rare and thus proportionately more important in a landscape context. This could cause or contribute to greater cumulative impacts to the identified receiving waterways, both of which are listed as impaired under §303(d) of the Clean Water Act.

Section 230.10(a) of the Guidelines prohibits the discharge of dredged and/or fill material into waters of the U.S. when there is a practicable alternative that would have less adverse impact on the aquatic ecosystem, so long as that alternative does not have other significant environmental impacts. Based on our assessment of the available information on this project, it is the EPA's conclusion that the proposed project does not comply with the 404(b)(1) Guidelines. The applicant has not fully demonstrated that the proposed project is the LEDPA, as required by the Guidelines.

Enclosed are the EPA's detailed comments regarding the proposed project. Many of these same comments were raised during our review of the Draft and Final EIS and are reiterated here for consistency.

Thank you for the opportunity to comment on the proposed project. We look forward to working collaboratively with the Corps and ITD, as necessary, to resolve the issues raised in this letter. Together we can work to "restore and maintain the chemical, physical, and biological integrity of the Nation's waters" and preserve our natural heritage in the Palouse. Should you have any questions or would like further information on these comments, please do not hesitate to contact me at (206) 553-0171 or via electronic mail at shaw.hanh@epa.gov, or contact Charissa Bujak in our Boise Operations Office at (208) 378-5754, or at bujak.charissa@epa.gov.

Sincerely,



Hanh Shaw, Acting Manager
Aquatic Resources Unit
Office of Environmental Review and Assessment

Enclosure